

**CITY COUNCIL OF THE CITY OF SAN DIEGO  
THE CLOSED SESSION MEETING REPORT  
FOR MONDAY AND TUESDAY, JUNE 11 AND 12, 2012  
CITY ADMINISTRATION BUILDING  
COMMITTEE ROOM – 12<sup>TH</sup> FLOOR  
202 “C” STREET  
SAN DIEGO, CA 92101**

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**REPORTING THE RESULTS OF THE CLOSED SESSION MEETING**

Only items that can be disclosed are reported out in the Open Session of the regular City Council Meeting. Public comment on Closed Session items are taken in Open Session. Please refer to the City Clerk’s minutes for Open Session for more information. Assistant City Attorney Mary Jo Lanzafame reports the results of the Closed Session Meeting of June 11 - 12, 2012. There was a Special Closed Session Meeting on Monday, June 11, that started at 2:00 p.m. or thereabout; and the regularly scheduled Closed Session Meeting on Tuesday, June 12, 2012, that started at 9:00 a.m.

**SPECIAL CLOSED SESSION MEETING FOR MONDAY, JUNE 11, 2012, AT 2:00 P.M.**

(Items not heard at this meeting were heard at the regular scheduled meeting on Tuesday, June 12, 2012, at 9:00 a.m.)

**ROLL CALL:**

Present: Mayor Sanders, Council President Young, Council President Pro Tem Faulconer and Councilmembers Lightner, Gloria, DeMaio, Zapf, Emerald, and Alvarez

Absent: All Present

**SPECIAL CLOSED SESSION ITEMS FOR MONDAY, JUNE 11, 2012:**

**Conference with Legal Counsel - existing litigation, pursuant to California Government Code section 54956.9(a):**

**CS-1 *Border Business Park, Inc. v. City of San Diego***  
San Diego Superior Court Case No. GIC692794

***Border Business Park, Inc. v. City of San Diego***  
San Diego Superior Court Case No. 37-2011-00090494-CU-EU-CTL

***National Enterprises, Inc. v. City of San Diego***  
San Diego Superior Court Case No. GIC73001

***Otay Acquisitions, LLC v. City of San Diego***  
San Diego Superior Court Case No. GIC753247

***Otay Truck Parking, LP v. City of San Diego***  
San Diego Superior Court Case No. 37-2009-00095661-CU-EI-CTL

DCA Assigned: D. Karlin  
Outside Counsel: Christopher Garrett, Patricia Guerrero, and Jake Ryan of the law firm  
of LATHAM & WATKINS LLP

**NOTE:** This item was heard at the June 12, 2012, Closed Session Meeting.

**CS-2** ***Zizzo v. City of San Diego, et al.***  
San Diego Superior Court Case No. 37-2012-00090446-CU-OE-CTL

CDCA Assigned: J. Cordileone

**NOTE:** This item was heard at the June 12, 2012, Closed Session Meeting.

**CS-3** ***David Flores v. City of San Diego***  
San Diego Superior Court Case No 37-2011-00095526

DCA Assigned: K. Zlotnik

**NOTE:** This item was heard at the June 12, 2012, Closed Session Meeting.

**CS-4** ***City of San Diego ex rel. Heffner v. Rural/Metro Corporation***  
San Diego Superior Court Case No. 37-2010-00099272-CU-MC-CTL

DCAs Assigned: K. Phillips and S. Singer

**NOTE:** This item was heard at the June 12, 2012, Closed Session Meeting.

**CS-5** ***City of San Diego v. San Diego Gas & Electric***  
San Diego Superior Court Case No. 37-2008-00086025-CU-PO-CTL

DCA Assigned: B. Bailey

**NOTE:** This item was heard at the June 12, 2012, Closed Session Meeting.

**CS-6** ***Mary Bracewell v. Anthony Arevalos, et al.***  
San Diego Superior Court Case No. 37-2012-00090373-CU-PO-CTL  
U.S. District Court Case No. 3:12-CV-1266 WQH (JMA)  
DCA Assigned: C. Milligan

***Danielle Fisher v. Anthony Arevalos, et al.***  
San Diego Superior Court Case No. 37-2012-00096156-CU-PO-CTL  
U.S. District Court Case No. 3:12-CV-1268 LAB (NLS)  
DCA Assigned: C. Milligan

***Jane Doe v. Anthony Arevalos, et al.***

San Diego Superior Court Case No. 37-2012-00092039-CU-PO-CTL  
U.S. District Court Case No. 3:12CV-00689 MMA (DHB)  
DCA Assigned: S. Plotkin-Wolff

***Melissa Marin v. Anthony Arevalos, et al.***

San Diego Superior Court Case No. 37-2012-00090222-CU-PA-CTL  
U.S. District Court Case No. 3:12-CV-1264 JLS (BGS)  
DCA Assigned: K. Phillips

***Emma Mazmanian v. Anthony Arevalos, et al.***

San Diego Superior Court Case No. 37-2012-00092518-CU-CR-CTL  
DCA Assigned: S. Plotkin-Wolff

***Jane Roe v. Anthony Arevalos, et al.***

U.S. District Court Case No. 3:12-CV-0243 W  
DCA Assigned: S. Plotkin-Wolff

***Marjan Montazemi v. Anthony Arevalos, et al.***

San Diego Superior Court Case No. 37-2012-00090374-CU-PO-CTL  
U.S. District Court Case No. 3:12-CV- 1267 CAB (JMA)  
DCA Assigned: C. Milligan

***Ashley Steele v. Anthony Arevalos, et al.***

U.S. District Court Case No. 3:12-cv-01012 DMS (WMC)  
DCA Assigned: S. Plotkin-Wolff

***La Toshia Ann Thompson v. Anthony Arevalos, et al.***

San Diego Superior Court Case No. 37-2012-00092995-CU-CR-CTL  
DCA Assigned: S. Plotkin-Wolff

***Talia Tortora and Lacy White v. Anthony Arevalos, et al.***

San Diego Superior Court Case No. 37-2011-00103282-CU-PO-CTL  
U.S. District Court Case No. 3:12-CV-1265 MMA (WMC)  
DCA Assigned: K. Phillips

***Melissa Wilde v. Anthony Arevalos, et al.***

San Diego Superior Court Case No. 37-2012-00096314-CU-PO-CTL  
U.S. District Court Case No. 3:12-CV-1262 DMS (BGS)  
DCA Assigned: K. Phillips

***Clark Wong v. Anthony Arevalos, et al.***

San Diego Superior Court Case No. 37-2012-00096388-CU-PO-CTL  
DCA Assigned: C. Milligan

**NOTE:** This item was heard at the June 12, 2012, Closed Session Meeting.

**CS-7 *Public Employment Relations Board v. City of San Diego***

San Diego Superior Court Case No. 37-2012-00092205-CU-MC-CTL

DCA Assigned: W. Chung

Report: Nothing to report.

**CS-8 *City of San Diego v. Public Employment Relations Board/San Diego Municipal\* Employees Association***

Fourth District Court of Appeal, District One, Case No. D062090

DCA Assigned: W. Chung

Motion: Authorize City Attorney to file litigation with Court of Appeal.

Moved: Councilmember DeMaio – Dist. 5

Seconded: Councilmember Alvarez – Dist. 8

Vote: Passed 7 to 1 with Councilmember Emerald voting “No.”

Report: This item was reported out by Assistant City Attorney Mary Jo Lanza fame on Tuesday, June 12, 2012, at 2:20 p.m.

The City Council voted on Closed Session Item No. 8, *City of San Diego v. Public Employment Relations Board/San Diego Municipal Employees Association*, Fourth District Court of Appeal, District One, Case No. D062090, to authorize the City Attorney to initiate litigation. This case involves asking the Court of Appeal to decide whether the City had to meet and confer with labor organizations prior to placing the ballot measure, Proposition B, on the ballot.

The motion passed 7 to 1 with Councilmember Emerald voting “No.”

**Conference with Labor Negotiators, pursuant to Government Code section 54957.6:**

**CS-9 Management Team Members:**

Scott Chadwick, Director, Human Resources Department  
Jennifer Carbuccia, Deputy Director, Human Resources Department  
Rimah Khouri, Labor Relations Officer  
Karen DeCrescenzo, Labor Relations Officer  
John O’Neill, Labor Relations Officer  
Lourdes Silva, Labor Relations Officer  
Greg Bych, Risk Management Director  
Valerie VanDeweghe, Deputy Director, Risk Management Department  
Marcelle Rossman, Financial Operations Manager, City Comptroller  
Joan Dawson, Deputy City Attorney  
Roxanne Story Parks, Deputy City Attorney  
William Gersten, Deputy City Attorney  
Lori Thacker, Deputy City Attorney

Designated as representatives within the meaning of California Government Code section 54957.6(a):

Andrea Tevlin, Independent Budget Analyst  
Jeff Sturak, Deputy Director, Office of the Independent Budget Analyst  
Lisa Byrne, Fiscal and Budget Analyst, Office of the Independent Budget Analyst

Employee organizations:

American Federation of State, County and Municipal Employees,  
Local 127 (AFSCME Local 127)  
Deputy City Attorneys Association (DCAA)  
San Diego City Firefighters, International Association of Fire Fighters, Local 145  
San Diego Municipal Employees' Association (MEA)  
San Diego Police Officers Association (SDPOA)  
Teamsters, Local 911 (Teamsters)

Report: Nothing to report.

**CLOSED SESSION MEETING FOR TUESDAY, JUNE 12, 2012, AT 9:00 A.M.**

(Items not heard at Monday's Special Closed Session meeting were heard at this Closed Session Meeting)

**ROLL CALL:**

Present: Mayor Sanders, Council President Young, Council President Pro Tem Faulconer and Councilmembers Lightner, Gloria, DeMaio, Zapf, Emerald, and Alvarez

Absent: Council President Young – Dist. 4 (Absent for Item CS-4)

**CLOSED SESSION ITEMS FOR TUESDAY, JUNE 12, 2012:**

**Conference with Legal Counsel - existing litigation, pursuant to California Government Code section 54956.9(a):**

**CS-1 *Border Business Park, Inc. v. City of San Diego***  
San Diego Superior Court Case No. GIC692794

***Border Business Park, Inc. v. City of San Diego***  
San Diego Superior Court Case No. 37-2011-00090494-CU-EU-CTL

***National Enterprises, Inc. v. City of San Diego***  
San Diego Superior Court Case No. GIC73001

***Otay Acquisitions, LLC v. City of San Diego***  
San Diego Superior Court Case No. GIC753247

***Otay Truck Parking, LP v. City of San Diego***

San Diego Superior Court Case No. 37-2009-00095661-CU-EI-CTL

DCA Assigned: D. Karlin

Outside Counsel: Christopher Garrett, Patricia Guerrero, and Jake Ryan of the law firm of LATHAM & WATKINS LLP

Report: Nothing to report.

**CS-2 *Zizzo v. City of San Diego, et al.***

San Diego Superior Court Case No. 37-2012-00090446-CU-OE-CTL

CDCA Assigned: J. Cordileone

Report: Nothing to report.

**CS-3 *David Flores v. City of San Diego***

San Diego Superior Court Case No 37-2011-00095526

DCA Assigned: K. Zlotnik

Report: Nothing to report.

**CS-4 *City of San Diego ex rel. Heffner v. Rural/Metro Corporation***

San Diego Superior Court Case No. 37-2010-00099272-CU-MC-CTL

DCAs Assigned: K. Phillips and S. Singer

Report: Nothing to report.

**CS-5 *City of San Diego v. San Diego Gas & Electric***

San Diego Superior Court Case No. 37-2008-00086025-CU-PO-CTL

DCA Assigned: B. Bailey

Motion: Approve settlement of \$27 million.

Moved: Councilmember DeMaio – Dist. 5

Seconded: Council President Pro Tem Faulconer – Dist. 2

Vote: Passed unanimously 8 to 0.

Report: This item was reported out by Assistant City Attorney Mary Jo Lanza fame on Tuesday, June 12, 2012, at 2:20 p.m.

The City Council voted on Closed Session Item No. 5, *City of San Diego v. San Diego Gas & Electric*, San Diego Superior Court Case No. 37-2008-00086025-CU-PO-CTL, to accept a settlement of \$27 million. This is a lawsuit filed by the City of San Diego against San Diego Gas & Electric seeking damages as a result of the Wildfires of 2007.

The motion passed unanimously 8 to 0.

**CS-6 *Mary Bracewell v. Anthony Arevalos, et al.***

San Diego Superior Court Case No. 37-2012-00090373-CU-PO-CTL  
U.S. District Court Case No. 3:12-CV-1266 WQH (JMA)  
DCA Assigned: C. Milligan

***Danielle Fisher v. Anthony Arevalos, et al.***

San Diego Superior Court Case No. 37-2012-00096156-CU-PO-CTL  
U.S. District Court Case No. 3:12-CV-1268 LAB (NLS)  
DCA Assigned: C. Milligan

***Jane Doe v. Anthony Arevalos, et al.***

San Diego Superior Court Case No. 37-2012-00092039-CU-PO-CTL  
U.S. District Court Case No. 3-12CV-00689 MMA (DHB)  
DCA Assigned: S. Plotkin-Wolff

***Melissa Marin v. Anthony Arevalos, et al.***

San Diego Superior Court Case No. 37-2012-00090222-CU-PA-CTL  
U.S. District Court Case No. 3:12-CV-1264 JLS (BGS)  
DCA Assigned: K. Phillips

***Emma Mazmanian v. Anthony Arevalos, et al.***

San Diego Superior Court Case No. 37-2012-00092518-CU-CR-CTL  
DCA Assigned: S. Plotkin-Wolff

***Jane Roe v. Anthony Arevalos, et al.***

U.S. District Court Case No. 3:12-CV-0243 W  
DCA Assigned: S. Plotkin-Wolff

***Marjan Montazemi v. Anthony Arevalos, et al.***

San Diego Superior Court Case No. 37-2012-00090374-CU-PO-CTL  
U.S. District Court Case No. 3:12-CV- 1267 CAB (JMA)  
DCA Assigned: C. Milligan

***Ashley Steele v. Anthony Arevalos, et al.***

U.S. District Court Case No. 3:12-cv-01012 DMS (WMC)  
DCA Assigned: S. Plotkin-Wolff

***La Toshia Ann Thompson v. Anthony Arevalos, et al.***

San Diego Superior Court Case No. 37-2012-00092995-CU-CR-CTL  
DCA Assigned: S. Plotkin-Wolff

***Talia Tortora and Lacy White v. Anthony Arevalos, et al.***

San Diego Superior Court Case No. 37-2011-00103282-CU-PO-CTL  
U.S. District Court Case No. 3:12-CV-1265 MMA (WMC)  
DCA Assigned: K. Phillips

***Melissa Wilde v. Anthony Arevalos, et al.***

San Diego Superior Court Case No. 37-2012-00096314-CU-PO-CTL

U.S. District Court Case No. 3:12-CV-1262 DMS (BGS)

DCA Assigned: K. Phillips

***Clark Wong v. Anthony Arevalos, et al.***

San Diego Superior Court Case No. 37-2012-00096388-CU-PO-CTL

DCA Assigned: C. Milligan

Motion: Defend Arevelos with reservation of rights to protect City's interest if Defendant defaults.

Moved: Councilmember Alvarez – Dist. 8

Seconded: Councilmember Lightner – Dist. 1

Vote: Passed 6 to 2 with Council President Pro Tem Faulconer and Councilmember DeMaio voting "No."

Report: This item was reported out by Assistant City Attorney Mary Jo Lanza fame on Tuesday, June 12, 2012, at 2:20 p.m.

In accordance with the Supreme Court decision of *Mary M. v. City of Los Angeles*, 54 Cal. Supreme Court 3d 2002, in order to avoid a default that might bind the City of San Diego, the City Council voted on Closed Session Item No. 6, to authorize the provision of a defense under Government Code section 995 through outside counsel provided however that the City will do so under a reservation of rights. The cases involve allegations by Mary Bracewell, Danielle Fisher, Jane Doe, Melissa Marin, Emma Mazmanian, Jan Roe, Marjan Montazemi, Ashley Steele, La Toshia Ann Thompson, Talia Tortora, Lacy White, Melissa Wilde, and Clark Wong of sexual harassment by a former police officer.

The motion passed 6 to 2 with Council President Pro Tem Faulconer and Councilmember DeMaio voting "No."

**(NOTE: Closed Session Items CS-7, CS-8, and CS-9 were head at the Special Closed Session Meeting on Monday, June 11, 2012)**

REPORTED BY: \_\_\_\_\_/S/

Mary Jo Lanza fame  
Assistant City Attorney